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Unsecured Creditors

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

In Re:)	Bankruptcy Nos. 02-22906 GEC
)	02-22907 GEC
SIMON TRANSPORTATION SERVICES)	02-24874 GEC
INC., DICK SIMON TRUCKING, INC. and)	(Chapter 11)
SIMON TERMINAL, LLC,)	[SUBSTANTIVELY CONSOLIDATED]
)	
Debtors.)	Judge Glen E. Clark
)	

**UNSECURED CREDITORS' COMMITTEE OBJECTION TO PROOFS OF CLAIM
NO. 678 AND 873 FILED BY THE MISSOURI DEPARTMENT OF REVENUE**

The Official Committee of Unsecured Creditors (the "Committee"), by and through its counsel, Fabian and Clendenin, hereby objects, pursuant to 11 U.S.C. § 502 and Rules 3003 and 3007 of the Federal Rules of Bankruptcy Procedure, to Proofs of Claim Nos. 678 and 873 filed

by the Missouri Department of Revenue in the above case. In support of the objection, the Committee states:

1. Debtors, Simon Transportation Services, Inc. and Dick Simon Trucking, Inc. filed their voluntary Chapter 11 petitions on February 25, 2002. Simon Terminal, LLC filed a voluntary Chapter 11 petition on March 26, 2002. The cases were jointly administered.
2. On April 22, 2002, the Court entered an order authorizing the sale of substantially all of the Debtors' assets to Central Refrigerated Service, Inc.
3. On March 5, 2002, the Court entered an order fixing August 26, 2002 as the deadline to file proofs of claim.
4. On March 12, 2003, the Court entered its *Order Confirming Amended Joint Plan of Liquidation* ("Confirmation Order") in the above jointly administered cases. Pursuant to the Amended Joint Plan of Liquidation the estates of the Debtors were substantially consolidated, and all property of Debtors vested in a consolidated estate (the "Estate") under the exclusive control of the Committee. The Committee was designated as the representative of the Estate pursuant to 11 U.S.C. § 1123(b)(3)(B) and given all necessary authority to administer the Estate, including the authority to object to claims. *See, Second Amended Joint Plan of Liquidation Dated December 27, 2002, ¶ 6.4.*

5. Based upon the foregoing, the Committee objects to the following claim:

Claim No. 678 – Missouri Department of Revenue

The Missouri Department of Revenue filed Claim no. 678 on July 5, 2002, asserting an unsecured priority claim pursuant to Section 507(a) in the amount of \$1,423.38, a general

unsecured claim in the amount of \$50.00, and an administrative claim pursuant to Section 503(b) in the amount of \$4,766.56. The claims are for corporate income tax and withholding tax. The State of Missouri estimated the corporate tax for the 2001 fiscal year to be \$1,006.73 and the pre-petition corporate tax for the 2002 fiscal year to be \$416.65. The claim also provided for an administrative claim of \$583.35 for post-petition corporate tax and \$4,183.21 for second quarter 2002 withholding tax.

The Committee has now completed tax returns for 2001 and 2002. The returns show the 2001 tax liability at \$265.00 and no liability for the 2002 tax year. Copies of the returns are attached. Based on the returns, the Committee submits that the \$265.00 should be allowed as a priority claim and the balance of claim no. 678 should be disallowed.

The administrative claim should be disallowed because the withholding taxes for a period after the sale of substantially all of Debtors' assets. Therefore, no employees were employed and no tax liability existed.

Claim No. 873 – Missouri Department of Revenue

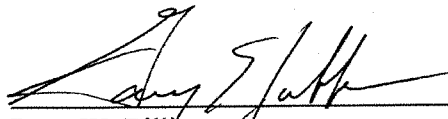
The Missouri Department of Revenue filed claim no. 873 asserting a claim for estimated withholding tax for June and July 2002. A sale of substantially all of the Debtors' assets was consummated on April 22, 2002. Accordingly, the Debtors had no business operations for the time period June 1, 2002 through July 31, 2002, the time for which the taxes have been estimated in the proof of claim.

The Committee objects to proof of claim no. 873 filed by the Missouri Department of Revenue on the basis that Debtor had no business operations during the period claimed and

therefore, no amount is owed. The Committee requests that claim no. 873 should be disallowed in its entirety.

WHEREFORE, the Committee seeks entry of an order allowing claim no. 678 as a priority claim in the amount of \$265.00, and disallowing the balance of claim no. 678 and claim no. 873, and for such other and further relief as the Court deems appropriate.

DATED this 18th day of September, 2003.



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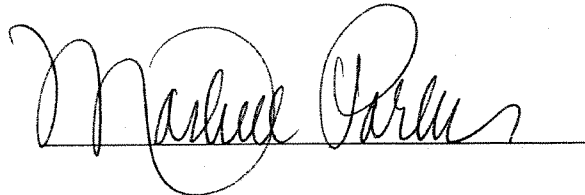
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was mailed, postage fully prepaid, this 19th day of September, 2003.

United States Trustee
9 Exchange Place, Suite 100
Salt Lake City, Utah 84111

Weston L. Harris
Parsons Kinghorn Peters
111 East Broadway, 11th Floor
Salt Lake City, UT 84111

Missouri Department of Revenue
State of Missouri
P.O. Box 475
Jefferson City, MO 65105

A handwritten signature in cursive script, appearing to read "Michael Peters", is written over a horizontal line.